CITY OF NEWARK DELAWARE

COUNCIL MEETING MINUTES

DECEMBER 11, 2023

Those present at 5:30 p.m.:

Presiding: Deputy Mayor, District 6, Travis McDermott

District 1, John Suchanec District 2, Corinth Ford District 4, Dwendolyn Creecy District 5, Jason Lawhorn

Absent: District 3, Jay Bancroft

Staff Members: City Manager Tom Coleman

City Solicitor Paul Bilodeau

Deputy City Secretary Diana Reed

Parks & Recreation Director Joe Spadafino Planning & Development Director Renee Bensley

Planning & Development Deputy Director Jessica Ramos-Velasquez

(Virtual)

Public Works & Water Resources Director Tim Filasky

Public Works & Water Resources Deputy Director Ethan Robinson

(Virtual)

Chief of Community Engagement Officer Jayme Gravell (Virtual)

Chief Human Resources Officer Devan Hardin

Chief Procurement and Projects Manager Jeff Martindale

Chief of Police Mark Farrall

Code Enforcement Manager George DeBenedictis

IT Infrastructure Manager Donald Lynch Senior Planner Michael Fortner (Virtual)

Community Planner Jacob Higgins
Administrative Professional I Jordan Herring

1. Mr. McDermott called the meeting to order at 5:35 p.m.

2. EXECUTIVE SESSION

- A. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) and (6) for the purpose of a strategy session with respect to collective bargaining when an open meeting would have an adverse effect on the bargaining position of the public body and discussion of the content of documents excluded from the definition of public record in §10002 of this title where such discussion may disclose the contents of such documents
- B. Executive Session Pursuant to 29 Del. C. §10004 (b)(4) for the purposes of a strategy session, including those involving legal advice or opinion from an attorney-at-law, with respect to potential litigation when an open meeting would have an adverse effect on the litigation position of the public body and discussion of the content of documents, excluded from the definition of "public record" in § 10002 of this title where such discussion may disclose the contents of such documents

MOTION BY MR. LAWHORN, SECONDED BY MR. SUCHANEC: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 *DEL. C.* §10004 (B) (4) AND (6) FOR THE PURPOSE OF STRATEGY SESSIONS WITH RESPECT TO COLLECVE BARGAINING WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE BARGAINING POSITION OF THE PUBLIC BODY AND DISCUSSION OF THE COTENT OF DOCUMENTS EXCLUDED FROM THE DEFINITION OF PUBLIC RECORD IN §10002 OF THIS TITLE WHERE SUCH DISCUSSION MAY DISCLOSE THE CONTENTS OF SUCH DOCUMENTS, AND INCLUDING THOSE INVOLVING LEGALADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITHRESPECT TO POTENTIAL LITIGATION WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE LITIGATION POSITION OF THE PUBLIC BODY AND DISCUSSION OF THE CONTENT

OF DOCUMENTS, EXCLUDED FROM THE DEFINITION OF "PUBLIC RECORD" IN §10002 OF THIS TITLE WHERE SUCH DISCUSSION MAY DISCLOSE THE CONTENTS OF SUCH DOCUMENTS.

MOTION PASSED. VOTE 5 TO 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay -0.

Absent - Bancroft.

3. RETURN TO PUBLIC SESSION

Council exited Executive Session at 7:04 p.m.

MOTION BY MR. LAWHORN, SECONDED BY MR. SUCHANEC: THAT COUNCIL AUTHORIZE LEGAL COUNSEL TO RESOLVE THE CITY EMPLOYEE'S REMAINING PERMANENCY AND DISFIGURATION CLAIMS AS DISCUSSED IN EXECUTIVE SESSION.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay -0.

Absent - Bancroft.

4. SILENT MEDITATION & PLEDGE OF ALLEGIANCE

Mr. McDermott asked for a moment of silence and the Pledge of Allegiance.

Mr. McDermott explained the procedures for the hybrid Microsoft Teams Meeting Platform. When beginning each item, the chair would call on the related staff member to present. When their presentation was complete, he would call on each Council member on the dais for comment. Following, he would call on remote Council members for comment. When a Council member had additional questions or comments, they should ask the chair to be recognized again after all members had the opportunity to speak. He instructed in-person attendees to sign up on the sign-in sheet near the entrance of the Council Chamber if they wished to provide public comment. At the appropriate time, the chair would call on them to speak. If virtual attendees wished to comment, they should use the hand-raising function in Microsoft Teams to signal the meeting organizer that they would like to speak. The Microsoft Teams chat would be disabled during the meeting. All lines would be muted until individuals were called on to speak, at which point the speaker's mic would be enabled and they could unmute themselves to give comment. Public comments were limited to 5 minutes per person, and all speakers needed to identify themselves prior to speaking with their name and district or street address. When there were Council members attending remotely, he would call on them at the appropriate time for their vote. All votes were required to be audible and no visible voting would be accepted. He asked all Councilmembers using Teams at the dais to turn off their speakers and microphones to prevent feedback. He asked all attendees to keep cameras off until called on to speak.

5. <u>2023 CITY OF NEWARK EMPLOYEE SERVICE AWARDS</u>

Mr. McDermott presented the City service awards to employees celebrating their 10th, 15th, 20th, 25th, and 35th anniversaries:

10 Years

Renee Bensley – Director of Planning & Development – Planning

Daniel Burgess - Corporal - Police

Brian Cannon – PSAP & Police Records Manager – Police

John Carroll, Jr. – Maintenance IV – Parking

Timothy Filasky – Director of Public Works & Water Resources – Water

Daniel Zebley - PW&WR Supervisor - Streets

15 Years

Anthony Carlini – Water Plant Operator – Water

Aaron Olicker – Sergeant – Police

Paul J. Personti, III – Lineman First Class – Electric

Tara Schiano – Director of Legislative Services/City Secretary – Legislative

Michael Windell – Equipment Operator – Parks

20 Years

Brian Donohue – Water Meter Technician – Water Robert Hoch – Maintenance IV – Parks Robert Locke – Heavy Equipment Operator/Mechanic – Water Ronald Martin – Maintenance IV – Parks Travis M. Uhde – Electrician – Electric

25 Years

Fred Anthony – Digital Scanner/Records Asst. II – Legislative Robert Conrad – Equipment Operator – Stormwater Blake Potocki – Sergeant – Police Cathy Trykowski – Purchasing Assistant – Administration Michael Van Campen – Captain – Police

35 Years

Thomas Buglio – Sergeant – Police Donna Vickers – Animal Control Officer – Police

Mr. McDermott congratulated these employees for reaching such milestones.

Mr. McDermott announced the community unfortunately lost retired police officer Ted Ryser during a medical incident in Florida. Many in the community have reached out to express their condolences for the life lost in his retirement and the service he had given to Newark. He proceeded to read a tribute from his obituary written by James Lucas.

"It is with profound sadness that we share the news of the passing of Theodore Ryser, a former Newark police officer and 911 supervisor, whose legacy of service to the City of Newark, Delaware, will forever be remembered. Ted, as he was affectionately known, passed away a few weeks ago after his involvement in a bicycle crash in Florida. Today, we reflect on his 40 years of unwavering dedication to public service and the indelible mark he left on the community he served.

Ted Ryser's commitment to the City of Newark spanned four decades, during which he served as both a police officer and a 911 supervisor. His distinguished career, characterized by integrity, professionalism, and a deep sense of duty, earned him the respect and admiration of colleagues and community members alike. After 21 years of patrolling the streets of Newark as a police officer, Ted transitioned to the crucial role of 911 supervisor where he continued to make a significant impact for an additional 19 years. As a supervisor, he played a pivotal role in coordinating emergency responses, ensuring the safety of the community during times of crisis and guiding the next generation of first responders. Ted's retirement in 2016 marked the culmination of a remarkable career dedicated to the protection and wellbeing of the residents of Newark. His tireless service and commitment to public safety extended far beyond the badge, leaving an enduring legacy that will befell for years to come.

The news of Ted's passing sent shockwaves through the Newark community as colleagues and friends mourn the loss of a true guardian of the city. His dedication, leadership, and compassion shown to those in need have left an indelible mark on the hearts of all that had the privilege of working alongside him. To Ted Ryser's family, friends, and the Newark community, we extend our deepest condolences during this difficult time. Thank you."

Mr. Suchanec noted he read the list of service awards to his wife, who remarked it was impressive. They agreed to reward these employees for their dedication. He thanked those who reached these anniversaries, and as a small token of appreciation from him, his wife, and Newark's residents, a small gift will be provided to each of the employees recognized this year. He once more thanked these employees for their service.

6. 1. PUBLIC PRESENTATION: (15-minute limit): None

7. <u>ITEMS NOT ON PUBLISHED AGENDA</u>

A. Elected Officials who represent City of Newark residents or utility customers (2 minutes): None

8. 2-B. UNIVERSITY

(1) Administration (5 minutes per speaker) (10 minutes):

9:42

Caitlin Olsen, UD Administration, stated Dr. Dennis Assanis, PhD, President of the University of Delaware, recently shared both the State of the University presentation to the Faculty Senate, and the December update presentation to the Board of Trustees. She stated many of the topics he spoke about have already been discussed with Council.

She noted the University wishes to make students and the community aware of their winter session. It is longer than that of most universities, but many of the in-demand classes are during January so students can complete them and potentially graduate earlier. Additionally, there are online classes offered during this period, to accommodate out-of-state students who may be traveling home for the holidays.

Ms. Olsen shared Dr. Assanis additionally addressed applications for the next year and the University's strive towards drawing in top-tier students. She thanked City staff and Council for their contribution towards the beautiful city that helps the University achieve this goal.

She noted Dr. Assanis mentioned the University has been working to manage post-Covid budget constraints, such as students who need more financial aid than prior. Therefore, the University has been exceeding its budget for financial aid. There are also pressures on the budget, such as union and benefit negotiations, along with hiring staff members at higher rates to match the increased cost of living.

Ms. Olsen wished the City a happy holiday season and encouraged Council to reach out if there was anything she could assist with.

Mr. Lawhorn noted the Board of Trustees approved demolition of Main Towers. He asked if there were any details of timing, method, and any measures to care for the community during demolition. He noted there were extensive methods, such as sensors, to mitigate disruptions such as dust during the time of the Rodney Dorms' demolition.

Ms. Olsen responded that the aim is for a June 2024 demolition. This is due to upgrades to the Pencader Dining Hall, so destruction at that time will make the most sense. She stated a Request For Proposal (RFP) was put out for both methods, but the University is still determining the best method when factoring in costs, efficiency, and safety. She spoke to the project managers regarding safety, dust, and noise. It was decided sensors will be used to indicate the presence of these disturbances. She hoped an open community meeting in spring would be held once a construction team is on board to answer any questions. She will reach out to place this on the City public calendar and for Council's district newsletters when available. There will be both a physical and virtual location, and the information sessions will be conducted through questions and answers.

- 9. 2-B-2. STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes): None
- 10. 2-C. <u>CITY MANAGER (10 minutes):</u> None
- 11. 2-D. <u>COUNCIL MEMBERS (5 minutes):</u>

15:32

Ms. Ford:

- Announced Greg Baldwin will be retiring from the Newark Housing Authority (NHA). She noted there is a letter of commendation to be presented to him this Friday.
- Noted she sent a request for recognition for Marty Rogalewicz, who will be retiring after a 40-year career at Aetna Hose, Hook & Ladder. He was cited for his bravery and stands in the Firefighters Association Hall of Fame. He was honored as the 2001 Heroic Firefighter of the Year for rescuing a young boy who had fallen through the ice in a frozen pond here in Newark. She had asked the City Secretary to draft a proclamation to be presented to him at his retirement on Friday.

Mr. Suchanec:

• No comment.

Dr. Bancroft:

• Absent.

Ms. Creecy:

• Asked if the letter drafted for Mr. Baldwin will be signed by all members of Council. Mr. McDermott noted it is a proclamation that was signed by him.

Mr. Lawhorn:

No comment.

Mr. McDermott:

- No comment.
- 12. 2-E. PUBLIC COMMENT (5 minutes per speaker) (10 minutes): None
- 13. 3. APPROVAL OF CONSENT AGENDA: (1 minute)
 - **A.** Approval of Council Meeting Minutes November 13, 2023
 - **B.** Receipt of Planning Commission Minutes November 7, 2023
 - **C**. Cancellation of the January 8, 2024 Council Meeting
 - D. Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark for the Purchase of Annual Software Licenses and Materials up to \$100,000

17:35

Ms. Reed read the consent agenda into the record.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay -0.

Absent – Bancroft.

- 14. 4. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS: None
- 15. 5. <u>ITEMS NOT FINISHED AT PREVIOUS MEETING:</u> None
- 16. 6. SPECIAL DEPARTMENT REPORTS:
 - A. Report and Consensus Recommendation on Activities Proposed for 50th Year Community Development Block Grant (July 1, 2024 June 30, 2025) and 2024 Revenue Sharing Program (January 1, 2024 December 31, 2024) Planning and Development Department (20 minutes) (Items 6A & 6B discussed simultaneously)

18:48

Jacob Higgins, Community Planner, staffs the Community Development Revenue Sharing Advisory Committee. He explained the Planning & Development Department hosted a public meeting on July 28, 2023, for potential applicants to ask questions about the application process. This marked the beginning of the application window, which ended on August 23, 2023. Following the application deadline, the Planning & Development staff compiled the 22 applications received and distributed them to each member of the committee for review prior to their meeting in October. Between October and November 2023, the committee met three times. They drafted and voted on recommendation packets at their final meeting on November 8th for the 50th Year Community Development Block Grant (CDBG) and 2024 Revenue Sharing Programs.

He stated applications to fund 22 programs were received: 8 for CDBG, and 14 for Revenue Sharing. The applications totaled just under \$400K in CBDG requests and \$121K in Revenue Sharing requests. However, the committee only had \$280K for CDBG, requiring difficult funding decisions to be made. The attachments forwarded to Council include the 8 recommended programs, program reasoning, and the committee's reasoning behind each recommendation. Another attachment includes the City's contingency plan, which is the committee's recommendation if the total awarded CDBG allocation is less than the projection used by the committee. In this event, funds will be cut from the Newark Day Nursery's allocation to the minimum amount required to reach the 15% cap for public service projects. The remaining will come from the Home Improvement Program. However, if the difference between the projection used by the committee and the actual amount received is greater than \$25K, then the committee will reconvene and discuss further recommendations to present Council.

Mr. Higgins noted the \$121K that was received in Revenue Sharing funding requests. An attachment lists the programs recommended to be funded with the summaries of the applications and the reasoning behind each recommendation. There is another attachment listing programs that the

committee did not recommend allocating Revenue Sharing funds toward and the rationale for not doing so.

He explained Agenda Item 6B details the program income, the CDBG funds that are repaid to the City by previous loan recipients, made under the Home Improvement Program and the Homebuyers Incentive Program during the 49th and 50th CDBG years. This amount is \$57,722, of which the committee recommends that the Home Improvement Program receive \$49,932 in program income to be placed back into the program to assist more Newark residents with home repairs. In addition, the committee also recommended funding for program administration for the Home Improvement Program and the Homebuyers Incentive Program in the amount of \$11,790.

The Deputy Mayor opened the table to Council comment.

Mr. Lawhorn asked if the Homebuyers Incentive Program offered only up to \$5K.

Mr. Higgins responded it is a \$5K loan that goes towards the down payment for the home being purchased. It is currently a deferred loan, but staff are investigating ways to transform it into a grant in the future as part of the ongoing affordable housing initiative.

Mr. Lawhorn supported this idea, but asked if the current program was utilized in the prior year.

Mr. Higgins stated it was not utilized to his knowledge.

Mr. Lawhorn was concerned this amount is not enough to make the program truly viable. He wondered if the money would be better suited to transfer to another program since it was not utilized. He asked if there was any discussion regarding this.

Mr. Higgins stated the committee understood the money was not utilized in the prior year, yet still allocated funding this year in case they received an application.

Mr. McDermott mentioned this discussion has occurred for multiple years prior. He recalled the money had not been used at all in his time on Council. Last year, while there was a discussion of transforming the money into a grant, that was not the outcome. He favored transferring the funding to the Home Improvement Program.

Mr. Lawhorn agreed.

Ms. Creecy asked if the \$58K allocated towards the NHA is specifically for the George Read Village redevelopment project, and how the allocated funds are tracked when being spent.

Mr. Higgins explained invoices for any CDBG allocation must be sent to the Planning & Development Department. Staff ensures it falls under the guidelines of their application and what they were allocated. If so, the payment process will move forward.

Ms. Creecy asked if the amount awarded is not used in its entirety, would the remainder be reallocated to another project.

Renee Bensley, Director of Planning & Development, explained the applicant must expend the funds upfront and then submit the paperwork for reimbursement. Once this is done, the department will verify the funds were spent appropriately and the expense is authorized through the CBDG or Revenue Sharing program. They will then give the applicant a check for reimbursement. This process may look slightly different depending on the organization. Some may choose to submit one reimbursement for a lump sum while others submit partial reimbursements throughout the year as they provide or receive their services. There are various ways to disperse this money to the applicant after verification that the funds were expended appropriately, but the funds are not issued ahead of the documentation being received by the program administrator.

Ms. Creecy asked for further elaboration on the expenses allocated for program delivery.

Mr. Higgins explained this allocation pays for the staff work that is involved in administering the application, award and payment process.

Mr. Creecy believed the \$5K First Time Homebuyers allocation needed to be moved into the Home Improvement Program. She asked if this money is accumulating any interest by being unutilized.

Mr. Higgins confirmed it is not.

Mr. Suchanec thanked the committee for their work on this process. He asked how the amount of \$280K was determined.

Mr. Higgins clarified this to be an estimation. The exact funding allocation will be determined in Spring 2024.

Ms. Bensley explained the City is a pass-through agency for New Castle County for the Community Development Block Grant federally. New Castle County receives overall funds for the County for the grant. The City has a Memorandum of Understanding (MOU) with the County where the City allocates, within their boundaries, their portion of available funds. The portion available to the City is based on the federal funding allocation received in each year's budget, while considering Newark's population relative to the rest of the County.

Mr. Suchanec acknowledged Council did not determine this number but would be inclined to increase it if they had the means to do so.

Ms. Bensley explained Council does not determine what is received for the CDBG funds. However, they do set the amount which can be distributed as Revenue Sharing Funds.

Mr. Suchanec asked if Council is able to increase that amount.

Ms. Bensley stated the request has been to increase it relative to the Consumer Price Index (CPI). However, after a long period of stagnancy, it has only seen an increase in recent years.

Mr. Suchanec believed many of the programs which had been cut were still deserving of funding. He wished to investigate how the amount of available funding could be increased.

Mr. Coleman added staff discovered a coverage gap related to the removal of dangerous trees, which is not an allowable expense under CDBG. If the City wished to aid elderly or disadvantaged residents to take down trees, this could be of potential use under the Revenue Sharing Program.

Ms. Ford wished to see working people encouraged to buy homes. However, she believed that the \$5K should be reallocated if unused. She wondered how the public was made aware of these funds and how the program could be advertised. She asked the same of the Home Improvement Program, noting the Newark Senior Center's Senior Home Repair Program often goes with money unspent due to lack of awareness.

Mr. Higgins wished to clarify the differences between the programs offered by the City and the Senior Center. He explained the City has advertised for the Senior Home Repair Program on their own website but was not sure of what other sorts of advertising the Senior Center has done independently.

Ms. Ford wondered how a prospective homeowner looking for affordable housing would be aware of the \$5K in the Homebuyers Incentive Program.

Ms. Bensley explained there has been difficulty with this program specifically. Funding has been allocated for only one loan per year. This leaves a predicament where staff must decide between heavily advertising a program where there can only be one recipient, or refrain from heavily marketing the program and then awarding the money to whomever applies. She also noted loan size has not scaled with the cost of real estate noting it is not enough to be able to tackle the full upfront cost of buying a home. Staff is investigating whether it would make more sense to offer larger loans or transitioning to a grant instead of a loan, in the event that a more dedicated funding stream is identified. This would help to serve more people. Staff do not want to make promises for a program to the residents that they cannot deliver on.

Ms. Ford noted her concern was for all programs.

Ms. Bensley noted the Home Improvement Program's 2023 allocation was fully spent in 7 days, and she had to return to Council with an additional funding request.

Ms. Ford believed not many people are aware of these programs, including the Senior Home Repair & Weatherization Program. As many seniors do not have computers or are not online, they will not be reached by these advertisements if online is the only method of marketing used for the program.

She asked for further explanation on the \$55K that is allocated for program administration.

Mr. Higgins explained this pertains to the administration of the Home Improvement Program and the Homebuyers Incentive Program. This accounts for the salaries of staff members who help with the committee and the processing for applications received for the Home Improvement Program.

Ms. Ford stated this amount is often more than what is being awarded to applicants in some of these programs. She recommended finding a way to reduce administrative costs to allow allocating additional funding towards the applications received.

Mr. McDermott asked if Mr. Higgins was aware when the money for the Homebuyers Incentive Program was last utilized.

Mr. Higgins estimated 2014.

Ms. Bensley stated it is more recent than that year but was prior to the pandemic.

Mr. McDermott stated his intention to make an amendment to move that money toward another program. He asked if the Senior Home Repair & Weatherization funds are exhausted on a yearly basis.

Mr. Higgins noted the Newark Senior Center often has trouble doing so and reaches out to the City near the end of the year to ask if they can receive assistance with advertising. However, the Home Improvement Funds are exhausted, such as when they were spent after only a week.

Mr. McDermott supported the Homebuyer Incentive Program but believed it should be a grant. He did not believe a new homebuyer would want to go through the process to get a \$5K loan they must repay. However, he believed a grant would draw more attention and ensure the funds are expended quicker. He believed the current program's structure contribute to it being unsuccessful year over year.

Mr. Lawhorn asked if the Parks & Recreation Fee Assistance Program's funds are exhausted.

Mr. Higgins confirmed so. He explained they are used for low-income families whose children cannot afford to participate in community events.

Mr. Lawhorn asked for an estimation of how much additional money would be needed to meet all the needs of the program, and if families are sometimes turned away due to exhausted funds.

Joe Spadafino, Parks & Recreation Director, explained the CDBG funding is only one of the department's available resources. Additionally, they have the James F. Hall Scholarship Fund, which is funded by a percentage of the Turkey Trot Program, and is used to help fund the same services when the CDBG funding has been expended. This covers up to 75% of the costs of participation. There is another program that covers, for the individuals that qualify, 100% of participation costs for some families. There are multiple funding sources they can pull from. The Turkey Trot allows for a steady revenue stream and foundation for this assistance program.

Mr. Lawhorn agreed with advertising. He believed the best way to advertise for a Home Improvement or Senior Home Repair Program would be to notify contractors, as this program could help them find work. He found this to be potentially less burdensome on the City than advertising directly to the public.

Ms. Creecy agreed the Homebuyers Incentive Program fund should be a grant as opposed to a loan. She did not believe \$5K to be enough. She hoped more funding would be added if it were to become a grant.

Mr. Higgins stated staff is investigating how this could be made into a grant.

Ms. Bensley explained when loans for the Home Improvement Program or Homebuyer Incentive Program are issued, there is 0% interest on the loan attached to the property. There is a lien attached, where if the property becomes no longer owner-occupied or is sold, that loan will become due immediately. The money received by the City will then be put back into the programs for future projects.

She believed this to be a reason why it is important to find a reliable revenue source for affordable housing. The City would be unable to be able to continue replenishing the income for these projects if they were no longer a loan because they would not be receiving program income.

Mr. Suchanec noted 8A on the agenda is a Parks & Recreation item that pertains to benches and playground equipment. As the amount requested was rather high, he favored not using CDBG funding as a source of money for Parks & Recreation. However, he believed it was possible to find funding for such things in the budget itself, allowing the funding previously requested within the CDBG funds could be used for other CDBG Programs. While it was a one-off expense that would be used frequently over time, it would be better suited if the money were pulled from a different pool.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL AMEND 6A IN ATTACHMENT #2 AND MOVE THE \$5K IN ITEM 5, THE HOMEBUYER INCENTIVE PROGRAM, TO ITEM 7, THE HOME IMPROVEMENT PROGRAM, TO RAISE THAT FUNDING TO \$65K. MOTION PASSED. VOTE: 5 to 0.

Aye - Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay - 0.

Absent – Bancroft.

MOTION BY MR. LAWHORN, SECONDED BY MS. CREECY: THAT COUNCIL APPROVE 6A AS AMENDED.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay - 0.

Absent – Bancroft.

17. 6-B. REPORT AND CONSENSUS RECOMMENDATION ON ACTIVITIES PROPOSED FOR REALLOCATION OF THE 29TH YEAR (JULY 1, 2023 – JUNE 30, 2024) FUNDS FOR THE FOR THE 49TH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

47:00

MOTION BY MS. CREECY, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE RECOMMENDATION OF THE COMMUNITY DEVELOPMENT REVENUE SHARING ADVISORY COMMITTEE AS SHOWN IN THE PLANNING & DEVELOPMENT DEPARTMENT REPORT DATED DECEMBER 4, 2023.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay - 0.

Absent – Bancroft.

18. 7. FINANCIAL STATEMENT: None

19. 8. <u>RECOMMENDATIONS ON CONTRACTS & BIDS OVER CONSENT AGENDA LIMIT:</u>

A. Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark for the Purchase of Annual Software Licenses and Materials over \$100,000 – IT Infrastructure Manager (10 minutes)

47:50

Donald Lynch, IT Infrastructure Manager, explained this item pertains to purchasing annual software licenses that exceed \$100K. The four vendors meeting these requirements are Tyler Technologies, Dell, Microsoft, and Verizon Wireless. All four are required for City operations and included in the 2024 Operating Budget.

The Deputy Mayor opened the table to Council comment and received none.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MS. CREECY, SECONDED BY MR. LAWHORN: THAT COUNCIL WAIVE THE BID PROCESS UP TO THE BUDGETED AMOUNT IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF ANNUAL SOFTWARE LICENSES AND MATERIALS FROM TYLER TECHNOLOGIES OF PLANO, TEXAS; AND COMPUTER LEASES FROM DELL COVERING YEARS ONE THROUGH FOUR; AND MICROSOFT ENTERPRISE AGREEMENT COVERING YEARS ONE THROUGH THREE; AND CELLULAR SERVICES FOR VOICE AND DATA THROUGH VERIZON WIRELESS.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay -0.

Absent – Bancroft.

20. 8-B. RECOMMENDATION TO AWARD CONTRACT NO. 23-09 – WATER TANK IMPROVEMENTS (CAPITAL PROJECT 18605) – PUBLIC WORKS & WATER RESOURCES DIRECTIOR (10 MINUTES)

49:22

Tim Filasky, Director of Public Works & Water Resources, explained there was a water tank issue during a previous project that resulted in the State requiring a new permit. It has since been applied for and granted to the City. This permit is to ensure that any lead being removed from the tanks goes through a process of testing, sampling, and public notification. Everything in the contract will be required to comply with this permit. The City will utilize third-party testing that is paid for and owned by the City, as opposed to the contractor. This project will address three water tanks. If the results of the contractor's work are positive, the City will potentially award them the future work for the remaining two tanks which require maintenance. He noted the City will receive \$675K in loan forgiveness from the State Revolving Fund (SRF) at the end of the project.

The Deputy Mayor opened the table to Council comment.

Ms. Creecy asked if there are three tanks, as she saw in the paperwork there are two tanks and then repairs.

Mr. Filasky responded this includes the Arbor Park tank, the New London tank, and the Louviers tank. The Windy Hills tank is not subject to this project. Every tank painting project will provide any repairs or additions where necessary.

Mr. Lawhorn asked if there is a baseline level identified for lead testing in these areas.

Mr. Filasky stated there will be prior to the start of the project. There will be air monitoring as part of the project, but there is a baseline of what is on the tank. There will be complete removal, verification that the lead has been completely removed from the tank, and then the re-painting.

Mr. Coleman added staff additionally has the baseline levels within the soil.

Mr. Lawhorn asked if that is still valid. He advised staff have ensured the contractor is aware of the previous issues to prevent the same issue from reoccurring.

Mr. Filasky stated this will be the first step of the project.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MS. FORD, SECONDED BY MS. CREECY: THAT COUNCIL AWARD CONTRACT 23-09 – WATER TANK MAINTENANCE, TO WORLDWIDE INDUSTRIES CORP., OF BUTLER, PA, IN THE AMOUNT OF \$902,743.00.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay - 0.

Absent – Bancroft.

21. 8-C. RECOMMENDATION TO AMEND THE 2023-2027 CIP BUDGET AND AWARD CONTRACT NO. 23-15R - SANITARY SEWER IMPROVEMENTS 2023 (CAPITAL PROJECT S0904) PUBLIC WORKS & WATER RESOURCES DIRECTOR (10 MINUTES)

53:21

Mr. Filasky explained this project pertains to the inspection and lining of the City's sanitary sewer lines. Unlike water mains, sewer mains are typically not replaced. Instead, they are placed with a liner that extends their life by approximately 50-75 years. Sanitary sewer pipes tend to be deeper than water and generally accept the liner easily. In addition, capacity is usually gained rather than lost during the process as the pipe is typically cleaned out before it is lined.

He shared this project is approximately 8,000 linear ft., and significant manhole rehabilitations were added to the project this year. The 100 vertical ft. of manhole rehabilitations included in the project will be able to address approximately 20, 5 ft. deep manholes throughout the City. A similar type of lining prevents water from entering the manhole, as there is an issue of inflow infiltration that should be avoided as it raises the amount of water being transported and treated. The repairs prevent this water from needing to go downstream to the treatment facility. The manhole repairs are beginning to be incorporated in the contracts, as there have been successful repairs in the past.

The Deputy Mayor opened the table to Council comment.

Mr. Suchanec asked if this project will cause any resident inconvenience.

Mr. Filasky noted it is a one-day disturbance. The areas that are selected are discussed beforehand and there are conversations if any access agreements are needed. The process is as follows: the liner is put in, cures, and then the laterals must be reinstated. It automatically lines across the lateral, which will then need to be cut out so the laterals can continue to be used. Plenty of warning will be given to those affected before these inconveniences occur.

Mr. Suchanec asked if there is access to all pipes they wish to line, or if the project will involve them needing to cross onto individual resident's properties.

Mr. Filasky stated it is possible staff may need to do so. However, they always communicate with the resident beforehand and obtain access agreements.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MS. CREECY: THAT COUNCIL AMEND THE 2023-2027 CIP BUDGET AND AWARD CONTRACT NO. 23-15R TO THE LOWEST RESPONSIBLE BIDDER, INSITUFORM TECHNOLOGIES, LLC, IN THE AMOUNT OF \$1,829,770.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay - 0.

Absent – Bancroft.

Mr. McDermott announced a member of the public raised his hand on Microsoft Teams to comment on this item. After being recognized several time, he was unfortunately unable to be heard.

22. 8-D. RECOMMENDATION TO APPROVE AN EXTENSION OF CONTRACT 19-01 (TREE PRUNING, REMOVAL AND CREEK CLEARANCE) – DIRECTOR OF PARKS & RECREATION (10 MINUTES)

58:46

Joe Spadafino, Parks & Recreation Director, explained staff wished to extend this contract for one year to conclude on December 31, 2024. Miller's Tree Service has done great work for Newark for over seven years, and it is staff's opinion that the pricing remains competitive. There is funding in the 2024 Operating Budget for the services covered within this contract. The hourly rate for Miller's Tree Service, as per their bid rate, would be at the cost of \$50 per normal labor hours on Monday through Saturday 7 a.m. – 5 p.m., and \$100 per premium labor hours on Saturday after 5 p.m. and all-day Sunday.

The Deputy Mayor opened the table to Council comment.

There was no Council comment.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MS. CREECY, SECONDED BY MR. LAWHORN: THAT COUNCIL AWARD CONTRACT NO. 19-01, FURNISHING LABOR AND EQUIPMENT FOR TREE PRUNING, REMOVAL AND CREEK CLEARANCE OPERATIONS, TO MILLER'S TREE SERVICE AT THE COST OF \$50.00 PER NORMAL LABOR HOUR AND \$100.00 PER PREMIUM LABOR HOUR.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay - 0.

Absent - Bancroft.

23. 8-E. RECOMMENDATION TO ISSUE A CHANGE ORDER TO CONTRACT 23-07 (CITY HALL PARKING LOT RECONSTRUCTION) AND AMEND THE 2023-2027 BUDGET FOR CIP H2203 — CHIEF PROCUREMENT & PROJECTS OFFICER (10 MINUTES)

1:00:51

Jeff Martindale, Chief Procurement & Projects Officer, explained many construction projects often encounter several unforeseen issues that are difficult to identify beforehand but must be addressed. For the ongoing City Hall parking lot project, it was identified that approximately 70% required a more substantial milling and paving than what was originally included and expected within the contract. With the project being on-site and the weather worsening, staff had no choice but to issue an emergency authorization to the contractor to proceed with an expanded project prior to a discussion with Council. The overall enhanced milling will prove better for the parking lot in the long-term.

Mr. Martindale stated the City has been approved to receive a \$100K grant from the Homeland Security Grant Program, administered by the Delaware Emergency Management Agency (DEMA). While the cost of the project is large, the net impact will be small due to this newly approved grant funding. He reminded no part of this project came from current 2023 resources.

The Deputy Mayor opened the table to Council comment.

There was no Council comment.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MS. CREECY, SECONDED BY MR. SUCHANEC: THAT COUNCIL AUTHORIZE A CHANGE FOR \$122,024.01 TO WJV GENERAL CONTRACTORS FOR CAPITAL PROJECT H2203 AND AMEND THE 2023-2027 CAPITAL BUDGET TO INCORPORATE A \$100,000 GRANT FROM THE HOMELAND SECURITY GRANT PROGRAM.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay – 0.

Absent - Bancroft.

24. 9. ORDINANCES FOR SECOND READING & PUBLIC HEARING:

A. Bill 23-20 – An Ordinance Amending Chapter 25, Sewers, Code of the City of Newark, Delaware, By Increasing Sewer Volumetric Charges Effective January 1, 2024

1:03:27

Ms. Reed read the ordinance into the record.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: TO OPEN PUBLIC HEARING.

Mr. Bilodeau noted at least four votes will be needed to pass a motion, as this item is an ordinance.

Mr. Coleman explained this is the 3.9% sewer adjustment that was included in the 2024 approved budget. It is driven primarily by increasing operational costs for the City.

The Deputy Mayor opened the table to Council comment.

There was no Council comment.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: THAT COUNCIL ADOPT BILL 23-20 AS PRESENTED.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay -0.

Absent – Bancroft.

(ORDINANCE NO. 23-18)

25. 9-B. BILL 23-21 – AN ORDINANCE AMENDING CHAPTER 30, WATER, CODE OF THE CITY OF NEWARK, DELAWARE, BY INCREASING WATER CUSTOMER CHARGES EFFECTIVE JANUARY 1, 2024; AND AMEND CHAPTER 30, SECTION 30-33, WATER RATES DURING VACANCY OF PROPERTY

1:04:50

Ms. Reed read the ordinance into the record.

Mr. Coleman explained this is the 4.25% water rate increase that was included in the approved 2024 budget. It is related to increasing operational costs. In addition, staff included removal of Sec. 30-33. This allowed residents to essentially receive a \$0 bill during periods of time when their water was disconnected. This made sense at a time when a customer charge did not exist. Now that there is a customer charge related to debt service payments, regardless of whether the water is used, its availability, and if the customer receives fire protection services while disconnected. Therefore, this section has been proposed to be removed.

The Deputy Mayor opened the table to Council comment.

There was no Council comment.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: THAT COUNCIL ADOPT BILL 23-21 AS PRESENTED.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay - 0.

Absent – Bancroft.

(ORDINANCE NO. 23-19)

26. 9-C. BILL 23-22 – AN ORDINANCE AMENDING CHAPTER 7, BUILDING, CODE OF THE CITY OF NEWARK, DELAWARE, BY INCREASING PERMIT FEES EFFECTIVE JANUARY 1, 2024

1:06:45

Ms. Reed read the ordinance into the record.

Ms. Bensley stated this is the first of three bills she was to present related to the FY2024 budget. The first is to amend Chapter 7 to increase permit fees, effective January 1, 2024. The items that are being

changed in this bill are to generate revenue to cover the additional cost of the new Code Enforcement Officer position, as well as to recover a portion of the additional expense for the new Fire Protection Specialist position.

The first change in the ordinance is to lower the threshold under which multiple subcontractor permits can be combined under the master building permit from \$1M to \$100K value of construction. This helps to streamline the building permit process, as a larger number of projects will become eligible, meaning fewer applications will need to be processed with no reduction in revenue. Currently, if construction costs are at \$1M+, the developer has the option of folding in electric, HVAC, and plumbing permits all under the master building permit. This change will mean that more projects will be eligible, there will be fewer permits to process, yet they will still receive the same level of service and inspections. This helps streamline the efforts so each individual subcontractor for a job does not have to apply separately, which sometimes can delay projects because they don't apply before starting construction.

The second change is an increase of building permit fees by \$3 per \$1K of project value for the first \$1M of a project. Currently, it is \$12 per \$1K of project value, and it will be increased to \$15 per \$1K of project value. Over \$1M, it will be increased by \$2 per \$1K. Currently, it is at \$6 per \$1K, and will increase to \$8. The minimum building fee has been left at \$50 so it will not increase permit costs for projects valued at \$3K or less. The third change is that annual sign fees will increase by \$0.50 per square foot, from \$0.75 to \$1.25 per square foot. The sign fee minimum will increase by \$10, from \$45 to \$55 per sign for businesses. This is a line item in the annual business license that is procured by the City.

The fourth change is to increase certificates of occupancy for single occupancy commercial buildings and single-family dwellings by \$50 per CO, and for multiple occupancy commercial and residential and multi-family residential by \$25 per CO. Multiple occupancy buildings were increased at a lower amount to recognize the economies of scale found by being able to inspect multiple units in one trip. References to "tenant" in multiple occupancy buildings (commercial/residential) have been changed to "unit" to avoid confusion of how residential units should be charged. This would mean they would be charged per unit to inspect, not per tenant.

The fifth change is to delete the time when plan review fees are paid. She clarified they are collected at permit issuance and not at time of application. The sixth change is to increase the fee for return inspections for incomplete work by \$100, from \$50 to \$150. This is where the contractor sets up an appointment with City Code Enforcement Officers to inspect the property, but they are not ready for the inspection when the inspectors arrive. Finally, the seventh change is to increase fire licenses by \$50, from \$50 to \$100. This is a line item for businesses on their building permits each year and goes toward helping to recoup the cost of the Fire Protection Specialist approved by Council earlier in the year.

Ms. Bensley reiterated Council adopted the F2024 budget with the revenue reflections projected in these fee increases. Therefore, staff recommend Council approve them as outlined in the attached bill.

The Deputy Mayor opened the table to Council comment.

Mr. Lawhorn asked if the cost for a return inspection pertained to whether the contractor is not prepared, or whether the inspector finds an error.

Ms. Bensley stated it is if they are not prepared. It is a frequent experience that an inspector goes to a large-scale project with a list of items that they were advised must be fixed, and when the inspection is completed they are still not completed.

George DeBenedictis, Code Enforcement Manager, explained this is not a fee that would be charged at the first visit to a project. However, if developers call out staff to inspect once more after being given a list of things that must be changed, staff will come under the assumption those changes have been made. It is common for contractors to use this for punch-list items and not items of compliance. This is where the fee would be imposed.

Mr. Lawhorn did not want someone to be subject to a fine for a new issue they were unaware of when scheduling the inspection. He was aware the City brought in money, which is justified, from these permits, but he wished to ensure the quality of service to their customers remained the same. He was aware inspectors often noted certain contractors who attempted to ignore and hide certain issues. He wished to maintain the City's high quality of service, as there are contractors who prefer not to work in Newark, and they wished for the residents to have as many options as possible when selecting a contractor for their work.

Ms. Bensley stated there has been a lot of staff change in the Code Enforcement division within the last year. They are working toward improving their customer service to homeowners, contractors, and developers alike. They are additionally making efforts to address items in both a timely and professional manner. A significant part of the reasoning behind the fee increase was additional staff being added, as response times were not meeting the desires of the division. The newly approved Code Enforcement Officer's hiring will further help the division reach that goal through completing inspections, reviewing plans, and providing feedback at a faster rate. She noted an additional part-time Administrative Professional position was also recently approved, which will assist with the administration of the division's rental permit program. While aware of many concerns, the Code Enforcement Division is striving to make measurable improvements.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MR. SUCHANEC: THAT COUNCIL ADOPT BILL 23-22 AS PRESENTED.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott. Nay – 0.

Absent – Bancroft.

(ORDINANCE NO. 23-20)

27. 9-D. BILL 23-23 – AN ORDINANCE AMENDING CHAPTER 7, BUILDING, CHAPTER 13, FINANCE, REVENUE, AND TAXATION, AND CHAPTER 17, HOUSING AND PROPERTY MAINTENANCE, CODE OF THE CITY OF NEWARK, DELAWARE, BY INCREASING RENTAL LICENSE FEES EFFECTIVE JANUARY 1, 2024, MOVING RENTAL LICENSE FEES AND RELATED REGULATIONS TO CHAPTER 13 FROM CHAPTER 17, AND ADDING NEW SECTION REFERENCE TO CONTINUE HAVING RENTAL LICENSE APPEALS BE MADE TO THE BOARD OF BUILDING, FIRE, PROPERTY MAINTENANCE AND SIDEWALK APPEALS

1:16:41

Ms. Reed read the ordinance into the record.

Ms. Bensley explained there have been many questions and feedback from the public and Council since the changes within this bill was originally discussed. The first task was to implement direction received from the Council meeting on July 17, 2023. She reminded Council the presentation at that meeting provided decision points the division was looking for guidance regarding which correlated to the implementation of the new International Property Maintenance Code. There are multiple changes within this bill.

The first is to restructure rental license fees to be designated by construction type instead of the number of units. This is so the fee can be based on the level of effort it takes to administer inspections to the specific type of unit as opposed to an arbitrary cutoff due to the number of units in a development. Additionally, the late fee structure is being changed to mirror the general late fee penalty. As of this meeting, every other late fee in the City is 5% when first overdue, and then 1.5% for each subsequent month it is late. For rental licenses, it is a flat fee of \$50. This caused issues for the internal administration of Code Enforcement as the software could not process that some late fees were higher than the initial fees which were being charged.

This bill changes the requirements for inspections of rental units, to require exterior and common area inspections (where applicable) for all rental properties annually. It additionally outlines the requirements for City Code Enforcement officials to offer opportunities and education for voluntary interior inspections. Previously, the caretaker clause was misinterpreted to exempt buildings of 15+ units from exterior and common area inspections. Staff worked with Mr. Bilodeau to determine this an erroneous interpretation, and those buildings should be inspected. These inspections will be added to the current inspection queue.

She explained the caretaker requirement will also be changed to an emergency contact requirement for rental licenses. The purpose of this clause was to be able to contact someone quickly in the event of an issue at the property. Instead of a caretaker requirement for 15+ units, it now requires an emergency contact for all rental units across the board so there is sufficient contact information in an

emergency situation. Unruly social gatherings are also being added as an offense that the City is required to notify the landlord of when a tenant is charged. Currently, those requirements are for noise violation and disorderly premises. With this addition, the Code will require staff to notify landlords for all three police-related violations that they would accrue points for under the nuisance property ordinance.

Ms. Bensley continued this bill would remove rental licenses and related inspections from Chapter 17, Housing and Property Maintenance, and place them in Chapter 13 with the rest of the City's licenses. This is partially because staff often are embroiled in navigating the details of rental permits, therefore resulting in being unable to address the property maintenance Code. This is the reason it has not been updated since 2009. Staff want to separate property maintenance from rental licenses so the Property Maintenance Code can be updated in relation to safety items without this problem in the future.

Correlating to that move, staff wanted to make sure they were not inadvertently changing something which they originally had no intention of changing. An example of these unintended consequences would be by moving Rental Licenses to Chapter 13, the appeals process for the rental licenses would no longer be under the jurisdiction of the Board of Building, Fire, Property Maintenance and Sidewalk Appeals. Staff wished to make sure if there is an issue with a rental license, there would still be a venue to appeal it to. When the rental licenses are in Chapter 17, they are already under the jurisdiction of this board. Therefore, this change would require a new reference for the appeals in order to keep the appeals process the same as it is currently.

Ms. Bensley explained staff are proposing to increase rental fees for the first time since January 2010, during which the Newark Landlords Association lawsuit was settled. The proposed increase would be to \$220 per dwelling unit for single-family or two-family dwellings; \$150 per dwelling unit for townhouse-style apartments and condominium dwellings; \$80 per dwelling unit for multi-family dwellings and buildings with 3 or more dwelling units; and \$45 per occupant for fraternities, sororities, and boarding houses. In addition, this bill indexes future automatic increases to rental license fees to inflation unless Council were to pass a resolution to either waive or increase the fee adjustment. She noted it has been nearly 14 years since the fee's last adjustment. During that time, there has been a 42% increase in CPI. Staff wish to ensure the City is not falling behind and, after this adjustment is made, they would keep pace in the future to where there is an annual gradual increase based on the cost of living.

She noted there have been questions on how the updated rental license fees were calculated. She explained the program was reviewed for current cost. This was a percentage of salary and benefits for staff members' time spent administering the program, and then other overhead costs such as vehicle, building, and office expenses. The revenue generated by current fees in 2022 was \$406,433.87. However, this did not meet the programs cost of \$697,699.91. Using Council direction to move forward with staff's recommendation to update the allocation of the fee based on construction type, the amount of effort for each type of unit inspection was calculated based on multiple factors. In this analysis, staff discovered single-family dwelling rentals were recovering most of their costs, warranting only a small increase. She shared the existing single-family fee is \$200, and the recommended fee reflects an increase of 10% to \$220. Meanwhile, multi-family dwelling rentals were not recovering their costs, warranting a larger increase. She noted the County is reassessing properties based on their value and it will redistribute the tax burden based on that. The City is reassessing rental units based on the amount of effort it takes to administer the program for these units and then redistribute the burden based on those results.

Ms. Bensley continued by sharing the numbers being used for this proposal. The number of units totals to 6,363. This breaks down to 1,516 single- or two-family dwellings; 515 townhouse-style apartments; 179 condominium units; 3,978 multifamily dwellings with three units or more; and 175 occupants of fraternities, sororities, or boarding houses. Another question received was whether staff are basing this on inspecting 100% of units, and how the costs are based on said percentage. She clarified it is not based on 100% of units as interior inspections are voluntary. Staff time was allocated based on the pre-COVID percentage of 50% of rental units inspected within structures containing 14 units or less. She explained while 50% sounds like a substantial amount, the estimate has been based on the units being targeted for inspection due to the previous interpretation of the caretaker clause. Any development of 15+ units was not originally included in that number. The number of 50% correlates to single- or two-family dwellings, townhouse-style apartments, and condominium units. This equates to approximately 1.1K units out of the 6,363 to get back to pre-COVID inspection levels.

She recalled the previous discussion with Council regarding mandating interior inspections in every unit and how that would require hiring 2-3 additional Property Maintenance Inspectors. However, those have not been included as a part of this bill. Mandatory interior inspections would lead to rental permit increases being even higher. She noted rental inspections have decreased significantly since COVID, but that is partially due to the fact Code Enforcement suspended proactive outreach for inspection

scheduling at the time of rental license renewal. It has not yet returned to the prior number of inspections. Staff intend to use the new Administrative Professional position they have been granted to resume proactive outreach for inspections. That position will additionally be used in conjunction with Property Maintenance Inspectors for tenant education. This is anticipated help to increase numbers back to the previous level of inspections.

Ms. Bensley proceeded to explain a measurement known as the Inspection Unit Factor (IUF) was used to judge the cost per unit. The IUF is the total cost of the program divided by the total inspection unit factor, the number of units multiplied by effort to administer the program. This is ranged 0.5 to 3 per unit. If the previous number of \$697,699.91 is divided by the total inspection unit factor, 9914, it equates to \$70.3752 for each IUF per unit.

For the category of effort to administer the program by construction type, the lowest effort is fraternities, sororities, and boarding houses with an IUF of 0.5. This is due to the fee's basis on number of occupants as opposed to the number of units. A smaller inspection unit factor is warranted to reflect the number of occupants, combining to a larger overall fee. Multifamily dwellings with three or more units is assigned an IUF 1.0, as single ownership allows for more inspections to be completed in one visit. This reduces staff travel time and vehicle usage. Additionally, smaller units allow for inspections to be completed more quickly. Townhouse style apartments are at a factor of 2.0, as the size of units (typically 4-7 bedrooms) means more time spent to cover the interior inspection of the unit. Some efficiencies account for single ownership of multiple units allowing for fewer trips for inspections. As townhouse-style apartments typically have a block owned by a single landlord, multiple can be inspected in one trip if permitted. Condominiums also have a factor of 2.0, as single-unit ownership means that multiple units typically cannot be inspected in one visit. However, smaller sizes account for some efficiencies due to less time for inspections. Finally, single- or two-family dwelling units have a factor of 3.0, for the same issues of single-unit ownership as condominiums and size of units as townhouse-style apartments.

Ms. Bensley explained when staff reviewed the amount of effort it takes to administer the rental program for each construction type, some covered expenses better than others. They wished to make the fee as equitable as possible as they recognized the increase would be difficult for some. While single- and two-family dwellings required the most effort, they covered a higher percentage of their costs. Multifamily dwellings currently are divided by number of units to determine the fees, which is not indicative of the amount of effort they take. Change in the interpretation of the caretaker clause means that no multifamily units will be exempt from exterior and common area inspections. This provides greater justification, especially for the increase for multi-family units currently in the 15+ category. They will receive more services from the City as part of their rental licenses due to receiving exterior and common area inspections which they previously were not receiving.

She noted another question was posed as to why revenue from tickets issued by Property Maintenance Inspectors is not being counted against this. She explained this is because property maintenance inspections have nothing to do with the rental license program. Property maintenance complaints are inspected regardless of occupancy type and citations are issued when appropriate. These citations are like the nuisance property ordinance in that they are issued based on the visit, not per violation. If an inspector writes a violation notice that has 6-7 citations, the violator will still receive a \$100 fine as opposed to a fine for every existing citation. Therefore, the numbers being presented as being generated in fees is not as high as one may expect.

Ms. Bensley continued to explain there is a small delta between what the fees will be generating and what the costs of the program are. This is primarily because staff were reviewing 2023 budget numbers as opposed to 2023 actuals or 2024 budget numbers. Staff saw additional cost increases in 2023 and anticipate additional increases in 2024 with increased costs of the City's benefits and the new CWA contract. All Code Enforcement staff, with exception of management, are involved in that Union. Staff believe the delta proposed for the amount this fee will generate is appropriate.

The Deputy Mayor opened the table to Council comment.

Mr. Lawhorn asked if the numbers generated from fines could be made public if they are significantly different than what is perceived.

Ms. Bensley confirmed these numbers are included in the budget, just not this calculation.

Mr. Lawhorn was concerned the landlord community will be sensitive to these fees following a lawsuit from over a decade ago. He believed if the City is exceptionally transparent to answer these questions, that relationship can be preserved. He understood the previous board of the Newark Landlord

Association was not very reasonable. However, the current board is fair-minded in their conversations with the City, while still having their own best interest in mind.

He noted Newark's fees, by law, must count for only the cost of administering the rental program. However, he worried a 50% interior inspection rate was too aggressive a number.

Ms. Bensley stated this percentage is only of the previously eligible pool. It is not 50% of the 6,363 total rental units – it is 50% of the 2.2K units that were previously part of the inspections. This means the overall percentage is closer to 17% of the total number of rental units.

Mr. Lawhorn asked if this was the best educated guess based on information acquired pre-COVID. He wondered if there would be better tracking and data collection with the implementation of the new Code Enforcement software.

Ms. Bensley explained staff specifically designed a feature into the new software where each rental license record will have an attached inspection record. Three separate checklists have been created for inspections correlating to exteriors, interior common areas, and interior units. This is so staff can review what type of inspection was done based on what is attached to the license.

Mr. Lawhorn asked for the level of specificity in data this new software will provide. He asked if it would show the timing of inspections.

Ms. Bensley asked if this software was designed with a clock-in, clock-out mechanic.

Mr. DeBenedictis stated staff has not yet approached this stage in design. He believed it to be an option on all types of inspections and plan reviews.

Mr. Lawhorn believed more robust and resolute data would better assist the City in the event they must defend themselves regarding the fee structure.

Mr. Coleman explained there is the ability to create a work-order code to track employee time on permits. He was concerned of cases with a clock-in mechanism where employees would be required to do so for very quick and small tasks. He did still believe there is value in this mechanism if there is consistency to clock time for certain tasks. That way, time could be compared to how it is spent on specific types. However, he felt it would be more effective to use the City's timesheets if they were looking only to capture rental permit time.

Mr. DeBenedictis noted the clock-in feature would be an additional cost that the City has not purchased within the software.

Mr. Lawhorn suggested it to be considered. He stated managing these fees would need to be as accurate as possible, as it would eventually be paid for by the resident. He recalled a conversation where a landlord stated he would pass along the cost no matter the City's decision. He wished to be closely accurate, especially when considering affordable housing.

He asked if waiving inspections for brand new properties in their first few years had been included in this bill, and if so, for what amount of time.

Ms. Bensley stated there is an exception to inspections in the bill for a unit or multi-family development for which a rental license application or renewal is requested that has received a nonconditional certificate of occupancy from the City within 12 months of the date of the license application. In summary, if a first application is applied for within a year of construction, an inspection would not be necessary.

Ms. Creecy suggested a clause where a property owner or landlord should not have to pay a fee if they must cancel or are not ready for an inspection when they are sick, or an emergency arises.

Ms. Bensley stated it is staff's discretion of when to charge that fee. This fee is typically charged to more large-scale developments than individual homeowners.

Mr. Suchanec noted the term "rental permits" has been used in the past. However, the verbiage "rental licenses" is being stated now. He asked if the terms are interchangeable or different.

Ms. Bensley responded this is true. The verbiage is being changed to "licenses" to be consistent.

Mr. Suchanec recalled a conversation in a prior Council meeting that spoke of a recent incident in District 1. This led to the discussion regarding unenforceable codes due to the requirement of internal inspection prohibition. He asked if this ordinance would correct that situation.

Ms. Bensley explained this bill would change the Code from mandatory to voluntary inspections. To change the situation Mr. Suchanec described, staff were directed to revisit the conversation regarding the student home ordinance with Council to decide whether to entertain changes or not.

Mr. Suchanec asked if student housing would be handled differently from this bill, or whether it would matter if the tenant were a student or not.

Ms. Bensley stated this bill pertains to rental licenses across the board. The status of student or non-student will not be considered.

Mr. Suchanec asked if those renting in a residential-zoned district in Newark would now have to follow these procedures.

Mr. Coleman noted they already do so currently.

Ms. Bensley clarified this bill is to move these procedures from one chapter to another. The only changes are those which she outlined within her presentation.

Mr. Coleman stated one change included is to eliminate the unenforceable mandatory requirements. Mandatory interior inspections cannot be completed as the City can only be voluntarily allowed inside to inspect.

Mr. Suchanec asked if the landlord or property owner is the only person who can allow for inspection.

Ms. Bensley stated the tenant can also give permission to inspect under the Delaware Landlord-Tenant Code. The landlord cannot deny the City the inspection when the tenant gives permission, but they are notified and have the right to be present for the inspection.

Mr. Suchanec noted an individual in a previous Council meeting commenting regarding an issue of mold in her unit, yet the landlord continued billing her and attempting to take her to court. He asked if this young lady could come to the City and ask them for an inspection.

Ms. Bensley stated she could if her rental unit were located in the City of Newark's municipal boundaries. If she was, an inspection could be completed, the landlord could be cited for the conditions, and she would be provided evidence for her case so she would potentially not need to pay those fees.

Mr. Suchanec believed there are existing codes or guidelines for permitting in residential areas, such as distancing between rental units. He asked if these will be enforced.

Ms. Bensley stated that would be another portion of the student home ordinance to discuss, as it only applies to student rentals. The bill presented this evening does not correlate to the student home ordinance.

The Deputy Mayor opened the floor to public comment.

Ms. Reed read a public comment into the record.

"Dear Council,

As the president of the Newark Landlord Association and representing the landlords of the City of Newark we want to go on record as opposing the proposed rental license fee increases. Delaware law requires fees to be reasonably related to the cost of regulating the license or permitted activity. We believe the calculations for the fees are incorrect. We are asking Council to table these discussions on any rental increases this evening. We are suggesting staff take a year to correctly ascertain data and costs so that a reasonable fee can be set to ensure compliance with Delaware law.

Council has given directions to staff to make interior inspections voluntary. We are in agreement with this direction. However, the proposed fees are based on doing interior inspections at the same rate

as the pre-Covid inspections were performed. This does not take into consideration the substantial decrease of interior inspections due to it being voluntary. In addition, there is no past data on how many units would request interior inspections in multifamily apartment units. We contend that the number will be in the range of 5%. The number of units to be inspected is important when calculating fees because the department is expensing 70% of their expenses to this program. We believe this is grossly inaccurate and therefore is not in compliance with Delaware law. Furthermore, a careful analysis of the total cost \$697,699 is with the flawed assumption and data, but yet the total proposed fees are \$763,735. Again, not compliant with Delaware law.

Recently we were given information which consisted of a 24-page spreadsheet that demonstrates the new nuisance property ordinance has generated an additional \$150,000 in fines which is incorrectly being allocated to Alderman's Court which in our opinion should be used to offset the building departments expenses. It is also important to note that over 1500 citations were issued to generate this additional revenue which means more than 30% of an inspector's time had to be used to generate these citations.

An example of how the increased rental permit fees do not match the services and expenses provided by the city is as follows. Currently a 28-townhouse development pays \$1260 a year. The new proposed fee will raise that to \$4200 a year. Yet the inspector will do far less interior inspections and will do primarily an exterior inspection. If we are to generously assume that it would take 3 hours to do an exterior inspection followed by 2 hours to do the paperwork, the cost based on an overhead and labor of \$166/hr would be \$830. The City is proposing an hourly charge of \$840. This demonstrates without equivocation the data used to calculate the fee is grossly flawed.

As you recall, this issue was litigated in the past and we do not want a repeat of history. We are respectfully requesting Council to pause this increase to gather further data points to correctly set the fee, not only for next year but future years.

Thanks
Kevin Mayhew
President
Newark Landlord Association."

There was no further public comment, and the Deputy Mayor returned the discussion to the table.

Mr. McDermott asked if a land-use attorney had reviewed the bill.

Ms. Bensley stated the City Solicitor reviewed the bill.

Mr. McDermott asked if it was Mr. Bilodeau's opinion that the City is on solid legal ground with these calculations.

Mr. Bilodeau stated he reviewed and discussed the calculations with staff. He believed they provided reasonable justification for the fees proposed.

Ms. Bensley stated the letter submitted by Mr. Mayhew references two different documents. One is the spreadsheet of calculations used, which was reviewed by the City Solicitor. Upon their request, it was provided to the Newark Landlord Association for them to review the data and justification for these fees. The 24-page spreadsheet referenced is the tracking document currently maintained for the nuisance property ordinance. This is where staff track all points accrued for all properties within the City of Newark. The letter assumes each citation on that list is a separate violation the City is charging \$100 for, but this is not accurate. She gave the example of an address with 18 separate violations, but only 7 citations were issued which is indicated by the dates issued. This equates to \$700 in fines, not \$1.8K.

Mr. McDermott asked if the inspector's time to give citations is included.

Ms. Bensley stated it is not. She additionally noted the comment regarding the City charging 70% of the division's time is not accurate. The calculate includes 70% of the three Property Maintenance Inspectors' time, who conduct these inspections as being charged. Those who have been added as a portion of this range from 2%-100% for the new part-time Administrative Professional that will be dedicated specifically to the rental program.

Mr. McDermott disagreed with the statements in the email as citing a nuisance property is unrelated to issuing rental licenses.

MOTION BY MS. FORD, SECONDED BY MR. LAWHORN: THAT COUNCIL ADOPT BILL 23-23 AS PRESENTED.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay - 0.

Absent – Bancroft.

(ORDINANCE NO. 23-21)

28. 9-E. BILL 23-24 – AN ORDINANCE AMENDING CHAPTER 7, BUILDING, AND CHAPTER 13, FINANCE, REVENUE, AND TAXATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY CREATING A TECHNOLOGY FEE EFFECTIVE JANUARY 1, 2024

1:56:24

Ms. Reed read the ordinance into the record.

Ms. Bensley explained this bill creates a technology fee to be assessed to the various permits issued by the Code Enforcement Division. This fee has been created due to a yearly cost of approximately \$120K which has been added to the budget with the purchase of Tyler Enterprising Permitting & Licensing. Staff investigated ways to cover that cost to not burden the general fund. In investigating what other jurisdictions do for their own technology needs, staff discovered New Castle County adds a technology fee to the documents recorded in their Recorder of Deeds office.

When reviewing their target number, staff created a two-tiered fee. The first is a \$5 technology fee for each business and rental license that is issued each year. This is to recognize users that only interact with the system once a year for their renewals and do not continuously use it for plan review or other things of a larger scale. While staff wished for them to have a share of the cost, they did not want it to be excessive. Staff recognized that heavier users of the system will be for building permits such as multimillion-dollar projects. This technology fee is scaled by the percentage of the cost of the building permit with a maximum fee cap. To reach the budget cost for the software, staff decided on 15% of the building permit's cost with a maximum fee of \$4K. As staff will spend more time in the system for them, they should recover a greater portion of the cost. She noted the minimum building permit fee is \$50, there will be a minimum fee of \$7.50 for the technology fee being added to it, and then it will be up to a maximum of \$4K for the larger scale projects.

The Deputy Mayor opened the table to Council comment.

Ms. Ford noted that the software will benefit the developers as now they will be able to go online and check where they are in their process for that \$750. She believed this will be a cost savings to them in both time and efficiency as it will prevent the roundabout if the plan is sent back, redesign work is needed, and more money will need to be spent. She asked if this is correct.

Ms. Bensley clarified it is \$7.50 for the smallest building permits, and then up to \$4K for the largest. When reviewing what is received from users in this bill, she believed all users will be provided with better transparency as they will be able to review where their permit is within the review and approval process. Additionally, Staff is investigating the ability for resident's to be able to track what applications have been received in their area and their current status. There is currently a manual system for the process of larger-scale development review. Developers know what they have submitted, but they cannot see who has reviewed it so far, what feedback there is from those who have completed their reviews, and how long they should anticipate it to take before all comments are received. This offers greater transparency into the review process. By being able to deliver applications and plans electronically, applicants will be able to take comments into the native programs they use for the design and save time. She hoped this will reduce mistakes in translation. There is significant value to both the applicant and the City in this change.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: THAT COUNCIL ADOPT BILL 23-24 AS PRESENTED.

MOTION PASSED. VOTE: 5 to 0.

Aye – Suchanec, Ford, Creecy, Lawhorn, McDermott. Nay – 0. Absent – Bancroft.

(ORDINANCE NO. 23-22)

- 29. 10. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT: None
- 30. Meeting adjourned at 9:05 p.m.

Tara Schiano Director of Legislative Services City Secretary

/jh

